

(g) If reclamation of a site covered by an interim or permanent program permit is carried out under the Abandoned Mine Land Program, the permittee of the site shall reimburse the Abandoned Mine Land Fund for the cost of reclamation that is in excess of any bond forfeited to ensure reclamation. Neither the Secretary nor a State or Indian tribe performing reclamation under paragraph (d) or (e) of this section shall be held liable for any violations of any performance standards or reclamation requirements specified in Title V of the Act nor shall a reclamation activity undertaken on such lands or waters be held to any standards set forth in Title V of the Act.

(h) Surface coal mining operations on lands eligible for remining pursuant to Section 404 of the Act shall not affect the eligibility of such lands for reclamation activities after the release of the bonds or deposits posted by any such operation as provided by § 800.40 of this chapter. If the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his/her authority under Section 410 of the Act.

[47 FR 28596, June 30, 1982, as amended at 59 FR 28171, May 31, 1994]

#### **§ 874.13 Reclamation objectives and priorities.**

(a) Reclamation projects should be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810-14819, March 6, 1980).

(b) Reclamation projects shall reflect the priorities of Section 403(a) of the Act (30 U.S.C. 1233). Generally, projects lower than a priority 2 should not be undertaken until all known higher priority coal projects either have been accomplished, are in the process of being reclaimed, or have been approved for funding by the Secretary, except in those instances where such lower priority projects may be undertaken in conjunction with a priority 1 or 2 site in accordance with OSM's "Final Guide-

lines for Reclamation Programs and Projects."

[59 FR 28171, May 31, 1994]

#### **§ 874.14 Utilities and other facilities.**

(a) Any state or Indian tribe that has not certified the completion of all coal-related reclamation under Section 411(a) of the Act, 30 U.S.C. 1241(a), may expend up to 30 percent of the funds granted annually to such State or Indian tribe pursuant to the authority in Sections 402(g) (1) and (5) of the Act for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supplies, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

(b) If the adverse effect on water supplies referred to in this section occurred both prior to and after August 3, 1977, the project shall remain eligible, notwithstanding the criteria specified in 30 CFR 874.12(b), if the State or Indian tribe finds in writing, as part of its eligibility opinion, that such adverse affects are due predominately to effects of mining processes undertaken and abandoned prior to August 3, 1977.

(c) If the adverse effect on water supplies referred to in this section occurred both prior to and after the dates (and under the criteria) set forth under Section 402(g)(4)(B) of the Act, the project shall remain eligible, notwithstanding the criteria specified in 30 CFR 874.12(b), if the State or Indian tribe finds in writing, as part of its eligibility opinion, that such adverse effects are due predominately to the effects of mining processes undertaken and abandoned prior to those dates.

(d) Enhancement of facilities or utilities under this section shall include upgrading necessary to meet any local, State, or Federal public health or safety requirement. Enhancement shall not include, however, any service area expansion of a utility or facility not necessary to address a specific abandoned mine land problem.

[59 FR 28171, May 31, 1994]

#### **§ 874.15 Limited liability.**

No State or Indian tribe shall be liable under any provision of Federal law